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UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF NEW YORK

-----X	
MORRIS WHITE, LAWRENCE CARRINGTON, and	:
GEORGE GARDNER,	: ECF
Individually and on Behalf of All Other	: 07 Civ. 02345 (RJD)(JMA)
Persons Similarly Situated,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
WESTERN BEEF, INC.,	:
WESTERN BEEF RETAIL, INC.,	:
MIGUEL ABINADER, DERRICK GARFIELD,	:
and JOHN DOES #1-10,	:
	:
Defendants.	:
-----X	

DECLARATION OF PLAINTIFF LAWRENCE CARRINGTON

DECLARATION OF PLAINTIFF LAWRENCE CARRINGTON

I, **LAWRENCE CARRINGTON**, hereby declare under penalty of perjury under the laws of the United States of America that the following is true:

1. I was a butcher/clerk with the title “Assistant Manager”, employed by Western Beef, Inc. and Western Beef Retail, Inc., Derrick Garfield and Miguel Abinader (together “Defendant”). I worked for Defendants as a butcher/clerk with the title “assistant manager” from about October 2004 until early 2005 at the Elmont store and from on or about September 2005 until April 6, 2008 (the two periods together, the “time period”) at the Farmers Boulevard store.

2. Upon information and belief Miguel Abinader was the Chief Executive Officer of Defendant.

3. I first worked for Defendants on or about December 2003 as a frozen food and dairy clerk at the Elmont store on Long Island.

4. I worked as a frozen food and dairy clerk from about December 2003 until May 2004 when I started working as a butcher clerk.

5. I worked as a butcher clerk at the Elmont store From about May 2004 until October 2004 when my title changed to “Assistant Manager.” Although my title changed I still did the same work that I did as a butcher clerk.

6. I worked as a butcher clerk with the title “Assistant Manager” at the Elmont store from October 2004 until early February 2005, when I was transferred to the West Hempstead store where I continued to work as a butcher clerk with the title “Assistant Manager.”

7. During April 2005 I was sent back to the Elmont store and my title was changed back to butcher clerk.

8. I worked as a butcher clerk at Elmont from April 2005 to July 2005 when I was transferred to the Farmers Boulevard store where I continued to work as a butcher clerk until September 2005.

9. During September 2005, my titled was changed to Assistant Manager at the Farmers Boulevard store and worked until I was terminated on April 6, 2008 (except for a two week period in 2007 when I worked as a butcher/clerk at the East New york store located in Brooklyn, New York).

10. The Farmers boulevard Western Beef store was located at 130-35 Farmer's Boulevard, Queens, N.Y.

11. While I worked in Defendant's meat department, I always worked as a butcher clerk and was never a manager although I was often given the title "Assistant Manager."

12. My job responsibilities included but were not limited to butchering meat, selling meat products over the counter to customers, cleaning the meat space, and making orders to the Western Beef warehouses for the delivery of meat products.

13. I worked from 7:00 a.m. to 5:00 p.m. on Tuesday, Wednesday, and Friday and worked on Saturday from 9:00 a.m. to 7:00 p.m. and Sunday from 7:00 a.m. to 5:00 p.m., which equals fifty hours per week, and often worked even more hours.

14. I was not given a lunch break and was required to work through lunch.

15. During the time period that I worked for Defendants as an Assistant Manager, I was first paid \$600 subsequently received \$650 per week and then \$700 per week.

16. Defendants hired other individuals with the title of assistant manager or department manager (which are functional equivalents as all worked as clerks), in the meat department, the produce department, the deli department, and the bakery department, who also were not acting as managers and did not have the right to hire and fire and also were not paid time and one half for overtime.

17. I never saw any notice posted indicating that any of Defendant's employees, including receivers, were entitled to be paid time and one half for overtime.

18. Upon information and belief I worked for Defendants with at least 40 other similar clerks and assistant managers and managers (together "manager"), who had the same duties as myself and at least 40 other employees with the title manager similar to myself

19. My duties and the duties of the other managers did not include managerial responsibilities or the exercise of independent business judgment.

20. During the time period, I worked approximately 50 to 80 hours per week.

21. In some weeks, I worked so many hours that I was not paid minimum wage.

22. Defendants did not pay me time and one half for any of my hours worked over 40 in a week ("overtime").

23. I have attached hereto as Exhibit A paystubs showing that I worked more than 40 hours per week and was not paid time and one half.

24. I electronically punched in and out of my job with a swipe card. Sometimes I was required to keep working after I swiped out of my job.

25. In addition to myself, during the time period, I am aware and have personal knowledge of other persons employed by Defendants as clerks and department managers who performed the same or similar work as myself. Upon information and belief, Defendant hired at least 40 of such similar employees

26. I and the other similar clerks and manager employees regularly worked more than 40 hours per week for Defendants.

27. I and these other similar clerks and manager employees worked more than 40 hours per week and were not paid time and one half for our overtime hours.

28. I know that others like me worked overtime and were not paid overtime by Defendants because I observed the other clerk and manager employees working more than 40 hours in a week and discussed the issue with certain of these other similar employees, including David, Francisco, Kieth, and Maria who all said that they worked more than 40 hours per week and that Defendants did not pay them time and one half their regular hourly rate for their overtime hours and did not pay them even at their regular hourly rate for all the hours that they worked.

29. I repeatedly complained to my supervisor, Ralph, about not being paid time and one half for overtime. He told me that Defendants had a policy not to pay overtime at time and one half to "managers" paid on salary.

30. Throughout the time period that I worked at Defendants, and, upon information and belief, both before that time and continuing until the present, Defendants

have likewise employed other individuals, like myself, in positions as clerks and department managers.

31. Such individuals have worked in excess of 40 hours per week, yet the Defendants have likewise willfully failed to pay them overtime compensation of one and one-half times their regular hourly rate.

Dated: March 13, 2008


LAWRENCE CARRINGTON

EXHIBIT A

CO. FILE DEPT. CLOCK NUMBER 1025
FPZ 505948 040100 0001500761 1

WESTERN BEEF, INC.
47-05 METROPOLITAN AVENUE
RIDGEWOOD, NY 11385

Earnings Statement

Period Ending: 03/26/2005
Pay Date: 03/29/2005

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 2
NY: 2
New York Cit: 2

Social Security Number: 069-58-4994

LAWRENCE CARRINGTON
217-18 135TH AVENUE
GF
SPRINGFIELD, NY 11413

Earnings	rate	hours	this period	year to date	Important Notes
Regular	600.00	90.00		7,680.00	O GOD, MY KING, I WILL BLESS YOUR NAME FOREVER.
Regular	600.00		600.00		
Vacation				1,200.00	
Gross Pay				8,880.00	

Deductions	Statutory	Other
Federal Income Tax	-57.02	
Social Security Tax	-37.20	
Medicare Tax	-8.70	
NY State Income Tax	-21.64	
New York Cit Income Tax	-13.59	
NY SUI/SDI Tax	-0.60	
2Nd Loan		400.00
Net Pay		\$461.25

CO. FILE DEPT. CLOCK NUMBER 591
FPZ 505948 020100 0001611268 1

WESTERN BEEF, INC.
47-05 METROPOLITAN AVENUE
RIDGEWOOD, NY 11385

Earnings Statement

Period Ending: 08/19/2006
Pay Date: 08/22/2006

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 0
NY: 0
New York Cit: 0

Social Security Number: XXX-XX-4994

LAWRENCE CARRINGTON
217-18 135TH AVENUE
GF
SPRINGFIELD, NY 11413

Earnings				year to date
	rate	hours	this period	
Regular	650.00	120.00		24,765.00
Regular	650.00		910.00	
Bereavement				390.00
Vacation				650.00
				25,805.00
Gross Pay				\$910.00

Important Notes
LORD, HEAR MY VOICE! LET YOUR EARS BE ATTENTIVE TO MY PLEADING.

Deductions		Statutory
Federal Income Tax		-150.79
Social Security Tax		-56.42
Medicare Tax		-13.19
NY State Income Tax		-45.51
New York Cit Income Tax		-27.14
NY SUI/SDI Tax		-0.60
Other		
Gain/P		-61.64
Loan		-50.00
Net Pay		\$504.71

Your federal taxable wages this period are \$910.00

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CO. FILE DEPT. CLOCK NUMBER 614
FPZ 505948 020100 0001639004 1

WESTERN BEEF, INC.
47-05 METROPOLITAN AVENUE
RIDGEWOOD, NY 11385

Earnings Statement



Period Ending: 12/23/2006
Pay Date: 12/27/2006

LAWRENCE CARRINGTON
217-18 135TH AVENUE
GF
SPRINGFIELD, NY 11413

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 0
NY: 0
New York Cit: 0

Social Security Number: XXX-XX-4994

Earnings	rate	hours	this period	year to date
Regular	700.00	105.00		37,245.00
Bereavement	700.00		840.00	
Bonus				390.00
Sick				250.00
Vacation				140.00
				1,300.00
				39,325.00
Gross Pay				\$840.00

Important Notes
MAY THE NAME OF JESUS BE BLESSED NOW AND FOREVER.

Deductions

Statutory	
Federal Income Tax	-133.29
Social Security Tax	-52.08
Medicare Tax	-12.18
NY State Income Tax	-40.72
New York Cit Income Tax	-24.41
NY SUI/SDI Tax	31.20
Other	
Garn/P	-57.73
Loan	
	2,243.98
	500.00
Net Pay	\$519.59

Your federal taxable wages this period are \$840.00

CO. FILE DEPT. CLOCK NUMBER 587
FPZ 505948 020100 0001656825 1

Earnings Statement



Period Ending: 03/17/2007
Pay Date: 03/20/2007

WESTERN BEEF, INC.
47-05 METROPOLITAN AVENUE
RIDGEWOOD, NY 11385

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 0
NY: 0
New York Cit: 0

Social Security Number: XXX-XX-4994

LAWRENCE CARRINGTON
217-18 135TH AVENUE
GF
SPRINGFIELD, NY 11413

Earnings	rate	hours	this period	year to date	Important Notes
Regular	700.00	60.00		8,540.00	LORD JESUS I PLACE MY TRUST IN YOU. YOU ARE MY SALVATION.
Regular	700.00		700.00		
Sick				140.00	
Gross Pay				8,680.00	

Deductions

Statutory	
Federal Income Tax	-95.72
Social Security Tax	-43.40
Medicare Tax	-10.15
NY State Income Tax	-31.13
New York Cit Income Tax	-18.95
NY SUI/SDI Tax	-0.60
Other	
Garn/P	-2.24
2Nd Loan	-50.00
Net Pay	\$147.81

Your federal taxable wages this period are \$700.00

CO. FILE DEPT. CLOCK NUMBER 654
FPZ 505948 020100 0001690305 1

Earnings Statement



Period Ending: 08/18/2007
Pay Date: 08/21/2007

WESTERN BEEF, INC.
47-05 METROPOLITAN AVENUE
RIDGEWOOD, NY 11385

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 0
NY: 0
New York Cit: 0

Social Security Number: XXX-XX-4994

LAWRENCE CARRINGTON
217-18 135TH AVENUE
GF
SPRINGFIELD, NY 11413

Earnings	rate	hours	this period	year to date	Important Notes
Regular	700.00	120.00		24,010.00	EMPLOYEE APPRECIATION DAY IS AUGUST 26, 2007
Regular	700.00		700.00		
Sick				140.00	
Vacation				700.00	
				24,850.00	
Gross Pay			\$760.00		

Deductions

Statutory	
Federal Income Tax	-95.72
Social Security Tax	-43.40
Medicare Tax	-10.15
NY State Income Tax	-31.13
New York Cit Income Tax	-18.95
NY SUI/SDI Tax	-0.60

Other

Garn/P	67.02
2Ndt Loan	500.00

Net Pay \$500.05

Your federal taxable wages this period are \$700.00